

ANDY DAVIS, PhD, 4-7-09

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IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )

Plaintiff, )

vs. )

4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al, )

Defendants. )

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THE VIDEOTAPED DEPOSITION OF  
ANDY DAVIS, PhD, produced as a witness on behalf  
of the Plaintiff in the above styled and numbered  
cause, taken on the 7th day of April, 2009, in the  
City of Tulsa, County of Tulsa, State of Oklahoma,  
before me, Lisa A. Steinmeyer, a Certified Shorthand  
Reporter, duly certified under and by virtue of the  
laws of the State of Oklahoma.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

Mr. Richard Garren  
Attorney at Law  
502 West 6th Street  
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FOR TYSON FOODS:

Mr. Bryan Burns  
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2210 West Oaklawn Drive  
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FOR CARGILL:

Ms. Melissa Collins  
Attorney at Law  
1700 Lincoln Street  
Suite 3200  
Denver, CO 80203

FOR GEORGE'S:

Mr. Gary Weeks  
Attorney at Law  
221 North College  
Fayetteville, AR 72701  
(Via phone)

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1 they were grown but --

2 Q Did you obtain any numbers of birds, how long  
3 birds are in the house, that kind of specific data?

4 A I seem to recall they spend eight weeks in one  
5 type of house, brooder houses, and then twelve weeks 10:46AM  
6 in another type of house, but that wasn't really the  
7 focus of my investigation, so it was just in  
8 passing.

9 Q Okay. Who made the decision to use the  
10 location of the poultry barns for your analysis? 10:46AM

11 A I don't understand the question.

12 Q Well, you've said you looked at the Cargill  
13 sites specifically and the adjoining land around it.

14 A Uh-huh.

15 Q Who made the decision to look at the site of 10:46AM  
16 the barn for your analysis? I mean, you've noted on  
17 your report -- every time we look at a photo, you've  
18 noted the location of the barns, have you not  
19 basically?

20 A Yes. 10:47AM

21 Q Who made the decision to make that as your  
22 focal point in your analysis?

23 A That was what I was asked to do by legal  
24 counsel.

25 Q Okay, and did -- who provided you the 10:47AM

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1 locations of those sites for your analysis?

2 A I got those from Miss Collins.

3 Q Okay, and I think, if I'm not mistaken, there

4 is a PDF of what appeared to be a spreadsheet that

5 shows the lat-long and the name of a grower and

10:47AM

6 maybe some other data; is that correct?

7 A That's correct.

8 Q And is that what you relied on; is that what

9 you used to determine the sites of these barns?

10 A Yes.

10:47AM

11 Q All right. Do you know whether or not these

12 barns have earthen floors or some other types of

13 floors?

14 A I didn't go into the barns. I don't know.

15 Q Do you agree with me the barns, from what

10:48AM

16 you've observed, have roofs on them; these are

17 covered structures; correct?

18 A That's correct.

19 Q Did you or others for you inspect any actual

20 poultry waste storage facilities at the Cargill

10:48AM

21 locations?

22 A No.

23 Q So for purposes of your analysis, you assumed

24 that the barn was the location for what would be the

25 source of any contaminant when you compared it to

10:48AM

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1 A No.

2 Q What records did you rely on that poultry  
3 waste was in fact land applied at or around the  
4 barns?

5 A That's the assumption I made for the purpose 10:50AM  
6 of the study. I had no other information.

7 Q Okay. That was going to be my next question.  
8 Did you discuss your assumption with anybody in the  
9 Cargill corporate representatives, not the lawyers  
10 but the corporate representatives? 10:50AM

11 MS. COLLINS: Object to form.

12 A No.

13 Q Did you discuss the assumption you made  
14 regarding the application sites with counsel for  
15 Cargill? 10:50AM

16 A Yes. I said that was the predicate for my  
17 work moving forward.

18 Q And did they approve that that would be the  
19 predicate for your work?

20 MS. COLLINS: Object to form. 10:51AM

21 A They didn't object to it. So I assume that  
22 was tasked assumption that they approved that.

23 Q All right. Other than the assumption you just  
24 described, did you do anything else to satisfy  
25 yourself where Cargill poultry waste was land 10:51AM

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1 applied?

2 MS. COLLINS: Object to form.

3 A Well, as I said, I had no other information to

4 reasonably assume they were taken anywhere else, and

5 my understanding is it was used as a resource to

10:51AM

6 actually facilitate grass growth. So I assume they

7 want to do that as close as possible to minimize

8 transport costs.

9 Q Okay. Did you discuss with any Cargill

10 growers the length that they would transport poultry

10:51AM

11 waste from the barn to the application sites?

12 A No.

13 Q So you don't know what distance the poultry

14 waste, when removed from the barns, may be

15 transported before it's applied; is that correct?

10:52AM

16 MS. COLLINS: Object to form.

17 A Well, that's correct. I assumed it would be

18 proximal to the houses.

19 Q Did you inquire and determine whether or not

20 the -- that all of the Cargill sites in fact land

10:52AM

21 applied on location where the barns were with the

22 immediately adjoining lands?

23 MS. COLLINS: Object to form.

24 A That was my assumption.

25 Q Okay, but you didn't make any specific inquiry

10:52AM

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1 to determine if that assumption was accurate;  
2 correct?

3 A That's correct.

4 Q Okay. Did you ask anyone if they in fact land  
5 applied on their sites at all?

10:52AM

6 MS. COLLINS: Object to form.

7 A No.

8 Q Did you ask anyone if they sold their poultry  
9 waste to others who then land applied?

10 MS. COLLINS: Object to form.

10:53AM

11 A No.

12 Q Did you make any inquiry as to whether poultry  
13 waste from Cargill locations was transported outside  
14 the IRW?

15 MS. COLLINS: Object to form.

10:53AM

16 A No.

17 Q In your opinion is rainfall necessary in this  
18 case to provide a transport mechanism of the  
19 land-applied poultry waste?

20 MS. COLLINS: Object to form.

10:53AM

21 A It depends on where it is. We've had that  
22 conversation before.

23 Q Well, where would it need to be that rain  
24 wouldn't be necessary for the poultry waste  
25 constituents to transport?

10:54AM